

386A.1-060 Rule of construction.

- (1) It shall be the policy of the Commonwealth through this chapter to give maximum effect to the principles of freedom of contract and the enforceability of governing instruments.
- (2) Except to the extent set forth in a governing instrument, a statutory trust is bound by the governing instrument.
- (3) Except to the extent set forth in the governing instrument, each trustee of a statutory trust is bound by the governing instrument.
- (4) Action validly taken pursuant to one (1) provision of this chapter shall not be deemed invalid solely because it is identical or similar in substance to an action that could have been taken pursuant to some other provision of this chapter but fails to satisfy one (1) or more requirements prescribed by such other provision.
- (5) No beneficial owner or other person shall have a vested property right resulting from any provision of the governing instrument which may not be modified by its amendment or as otherwise permitted by law.
- (6) Each beneficial owner and trustee and any other party to a governing instrument shall discharge all duties and exercise all rights consistently with the obligation of good faith and fair dealing.
- (7) If a governing instrument contains a provision to the effect that any amendment to the governing instrument shall be in writing and adopted in accordance with the provisions of the governing instrument, then the provision shall be enforceable in accordance with its terms, and any agreement as to the conduct of the business and affairs of the statutory trust which is not in writing and adopted in accordance with the provisions of the governing instrument shall not be considered part of the governing instrument and shall be void and unenforceable.
- (8) A statutory trust governed by this chapter is subject to any amendment or repeal thereof.
- (9) This chapter shall not be construed to impair the obligations of any contract existing when this chapter, or any amendment of it, becomes effective, nor to affect any action or proceeding begun or right accrued before the chapter or amendment takes effect.

Effective: July 12, 2012

History: Created 2012 Ky. Acts ch. 81, sec. 6, effective July 12, 2012.